IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

OP.No. 7362 of 1997(B)

PETITIONER:

P. UMMERKUTTY,
PROPRIETOR,
NOUSHAD PRINTERS,
M.O. ROAD,
VADAKARA.

BY ADV. SRI.N.L.KRISHNAMOORTHY
SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA

RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT,
TRIVANDRUM.

2. LABOUR COURT,
KOZHIKODE.

3. SRI. A. SANKARAN,
METHICHINTAVIDA HOUSE, (DIED)

4. PARU, W/O. LATE A.. SANKARAN, METHICHINTAVIDA HOUSE,
P.O. MUTTUNGAL (WEST), VATAKARA.

5. PADMANABHAN, S/O. LATE A. SANKARAN, METHICHINTAVIDA HOUSE,
P.O. MUTTUNGAL (WEST), VATAKARA.

6. MANOJ KUMAR, S/O. LATE A. SANKARAN, METHICHINTAVIDA HOUSE,
P.O.MUTTUNGAL (WEST), VATAKARA.

7. DEVI, D/O. LATE A. SANKARAN, KUTTYNADAYIL,
MANJAKULLAM, P.O. ERINGATH, KOZHIKODE (RESPONDENTS 4 TO 7 ARE IMPLEADED AS LEGAL HEIRS OF DECEASED 3RD RESPONDENT AS PER ORDER DATED 16.10.2007)

BY GOVERNMENT PLEADER SMT. M.R. SREELATHA
SRI.C.VATHSALAN
SRI.K.RAKESH ROSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.7362 OF 1997

ORDERS ON C.M.P.NO.13142 OF 1997 & I.A. 14995 OF 2005 IN O.P.NO.7362 OF 1997
DISMISSED

16.10.2007 SD/- S. SIRI JAGAN, JUDGE.

APPENDIX

EXT.P1(A): COPY OF THE DEPOSITION OF THE THIRD RESPONDENT.

EXT.P1: COPY OF THE AWARD DATED 29.11.95 IN INDUSTRIAL DISPUTE NO.26/93 PASSED BY THE SECOND RESPONDENT.

EXT.P2: COPY OF THE CLAIM PETITION DATED 18.3.1997 FILED BY THE THIRD RESPONDENT.

EXT.P3: COPY OF THE NOTICE/SUMMONS DATED 29.3.1997 ISSUED BY THE SECOND RESPONDENT.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No. 7362 OF 1997

Dated this the 16th day of October, 2007

JUDGMENT

The petitioner is the management in I.D.No.26 of 1993 before the Labour Court, Kozhikode. He is challenging Ext.P1 award passed in that industrial dispute. The issue involved in that industrial dispute was denial of employment of Sri. A. Sankaran, Compositor. The Labour Court found that the said Sri. A. Sankaran was a permanent employee of the petitioner and he was unjustly denied employment with effect from 18.6.1992. On that finding, the petitioner was directed to reinstate the workman Sri. A. Sankaran with full backwages, continuity of service and all other statutory benefits from 18.6.1992 onwards. The said award is under challenge in this writ petition.

2. During the pendency of this original petition, the said Sri. Sankaran, who was the 2nd respondent herein expired on 1.7.2004. The legal heirs have been impleaded as additional respondents by order in I.A.No.14995 of 2002. In view of the death of the workman, the question of reinstatement does not

arise now. The only question surviving for decision of this Court as to what should be the monetary benefit to be granted to the legal heirs, if any. As far as the validity of the award is concerned, the question as to whether said Sri. Sankaran was a permanent employee of the petitioner and as to whether he was denied employment from 18.6.92 have been found in favour of the workman after analysing the evidence adduced in the industrial dispute. On a reading of the award I do not find that there is anything perverse in such findings. Without holding that the findings are perverse, I would not be justified in interfering with those findings in exercise of my discretionary jurisdiction under Article 226 of the Constitution of India which is the settled law. However, still the question as to what should be the monetary relief to be granted to the legal heirs now has to be considered.

3. Ext.P1(a), which is the copy of the deposition of the said Sri. Sankarana in the industrial dispute, which is not disputed before me, would show that in 1995 Sri. Sankaran was 56 years old. As such he could have been in further employment for only two or four years. In cross examination, the said Sankaran himself admitted that in 1992 and

subsequently he was employed elsewhere. That being so, I do not think that the workman would be entitled to backwages for the entire period.

4. It is submitted before me that pursuant to interim order dated 25.4.1997 in C.M.P.No.13142 of 1997 an amount of Rs.7,500/- had already been paid, I feel that justice would be met if the petitioner pays a further amount of Rs.20,000/- (Rupees twenty thousand only) to additional respondents 4 to 7 in full and final settlement of benefits due to the deceased Sankaran under Ext.P1 award. This shall be done within a period of three weeks from today. However, I make it clear that the additional respondents would be entitled to other terminal benefits of deceased Sankaran like gratuity

The original petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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